

RECLAMATION

Managing Water in the West

Final Environmental Assessment

Jalama Weir/Salsipuedes Creek Fish Ladder Wooden Structure Removal – Cachuma Project

EA-10-110



U.S. Department of the Interior
Bureau of Reclamation
Mid Pacific Region
South-Central California Area Office
Fresno, California

January 2011

Mission Statements

The mission of the Department of the Interior is to protect and provide access to our Nation's natural and cultural heritage and honor our trust responsibilities to Indian Tribes and our commitments to island communities.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

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List of Acronyms and Abbreviations

APE	area of potential effects
BO	biological opinion
CAA	Clean Air Act
CCRB	Cachuma Conservation Release Board
CFR	Code of Federal regulations
CLRF	California red-legged frog
COMB	Cachuma Operation and Maintenance Board
CNDDB	California Natural Diversity Data Base
Corps	United States Army Corps of Engineers
CWA	Clean Water Act
DFG	California State Department of Fish and Game
DPS	Distinct Population Segment
EA	Environmental Assessment
ESA	Endangered Species Act
FWCA	Fish and Wildlife Coordination Act
ITA	Indian Trust Assets
MBTA	Migratory Bird Treaty Act
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NRHP	National Register of Historic Places
O&M	operation and maintenance
Reclamation	Bureau of Reclamation
RPM	Reasonable and Prudent Measures
Service	United States Fish and Wildlife Service
SHPO	State Historic Preservation Officer
SIP	State Implementation Plan
T&Cs	Terms and Conditions
TDS	total dissolved solids
U.S.	United States

Section 1 Purpose and Need

1.1 Background

The Cachuma Project is located in Santa Barbara County, California, and is one of three large-scale federal water development projects in the southern Central Coast region. The Cachuma Project captures seasonal floodwaters from the Santa Ynez River and its tributaries that would otherwise flow out to the Pacific Ocean. Authorized by the Secretary of the Interior in 1948, the Cachuma Project started with construction of Bradbury Dam, which was completed in 1950, and construction of related water delivery structures completed in 1956. The Bureau of Reclamation (Reclamation) is the federal agency charged with overseeing the Cachuma Project, including current operation of Bradbury Dam; however, operation and maintenance (O&M) responsibilities over the rest of the Cachuma Project and surrounding lands have been transferred to the Cachuma Operation and Maintenance Board (COMB). The Cachuma Project is operated for the purpose of providing water to the Cachuma Project Member Units consisting of: Goleta Water District, City of Santa Barbara, Montecito Water District, Carpinteria Valley Water District, and Santa Ynez River Water Conservation District Improvement District No.1.

In 1997, the National Marine Fisheries Service (NMFS) listed the Southern California Distinct Population Segment (DPS) of anadromous steelhead trout (*onocorhynchus mykiss irideus*) as an endangered species under the Federal Endangered Species Act of 1973 (ESA), as amended. The final rule designating critical habitat for the Southern California DPS steelhead was published in the Federal Register on September 2, 2005. The Southern California DPS steelhead and designated critical habitat includes the Santa Ynez River below Bradbury Dam.

In 1999, Reclamation initiated formal consultation with NMFS under Section 7(a)(2) of the ESA for continued O&M of the Cachuma Project on the lower Santa Ynez River. On September 8, 2000, NMFS issued a Biological Opinion (BO) containing a list of reasonable and prudent measures (RPM), each accompanied by terms and conditions (T&Cs) to satisfactorily meet the standards of the RPM and comply with the BO, and is hereby incorporated by reference (NMFS 2000).

1.2 Purpose and Need

In accordance with RMP #8 and the corresponding T&Cs of the NMFS BO, COMB, on Reclamation's behalf, constructed a weir and fish ladder structure on Salsipuedes Creek (which is a tributary to the Santa Ynez River) near Jalama Bridge in January 2004 to improve passage around an impediment structure for Southern California DPS steelhead. The concrete structure includes three step pools and four weirs (see Figure 1), and is referred to as the Jalama Weir and/or Salsipuedes Creek Fish Ladder at Jalama Bridge.

In late 2008, the California Department of Fish and Game (DFG) placed a temporary structure (wooden weir boards) against the upper-most weir (weir #4) of the fish ladder (see Figure 2). As a result, the height of the weir was increased, thereby adding to the height required by Southern California DPS steelhead to pass through the fish ladder. This action was taken reportedly to

increase the area inundated above Jalama Weir to benefit California red-legged frog (CRLF; *Rana draytonii*) habitat. No permit was issued by the United States Army Corps of Engineers (Corps), and neither NMFS or the United States Fish and Wildlife Service (Service) were consulted on the potential effects of the action to listed species including CRLF and Southern California DPS steelhead.

In the absence of any known investigation or enforcement action having been initiated by the regulatory authorities (Corps, NMFS, and/or Service) on DFG's action, and as a consequence of the perceived adverse impact to Reclamation and COMB's efforts to benefit steelhead in the lower Santa Ynez River Watershed, the wooden boards need to be removed and the fish ladder restored to original design in order to facilitate safe passage of Southern California DPS steelhead at Jalama Weir.

1.3 Scope

In accordance with section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, this Environmental Assessment (EA) has been prepared to analyze the hand removal of wooden boards on the Jalama Weir and Salsipuedes Creek Fish Ladder at Jalama Bridge in Santa Barbara County, California (see Figure 3). The Proposed Action would begin as soon as permitted and would be completed within one day in January 2011. This EA has also been prepared to analyze the potential impacts associated with the No Action Alternative.

1.4 Potential Environmental Issues

This EA will analyze the affected environment in order to determine the potential direct, indirect, and cumulative impacts to the following resources:

- Water Resources
- Biological Resources
- Cultural Resources
- Indian Trust Assets (ITA)
- Indian Sacred Sites

The following have been eliminated from detailed environmental analysis since initial review of the Proposed Action and No Action Alternative have determined that there would be no direct, indirect, and cumulative impacts to these resources:

- Air Quality - The Proposed Action would be completed by hand with hand tools and would not generate emissions or fugitive dust to impact air quality.
- Socioeconomic Resources – The Proposed Action has no potential to impact socioeconomic resources.
- Environmental Justice – The Proposed Action has no potential to impact minority or disadvantaged populations.
- Global Climate – The Proposed Action does not involve activities that would release greenhouse gases into the global climate and contribute to global climate change.

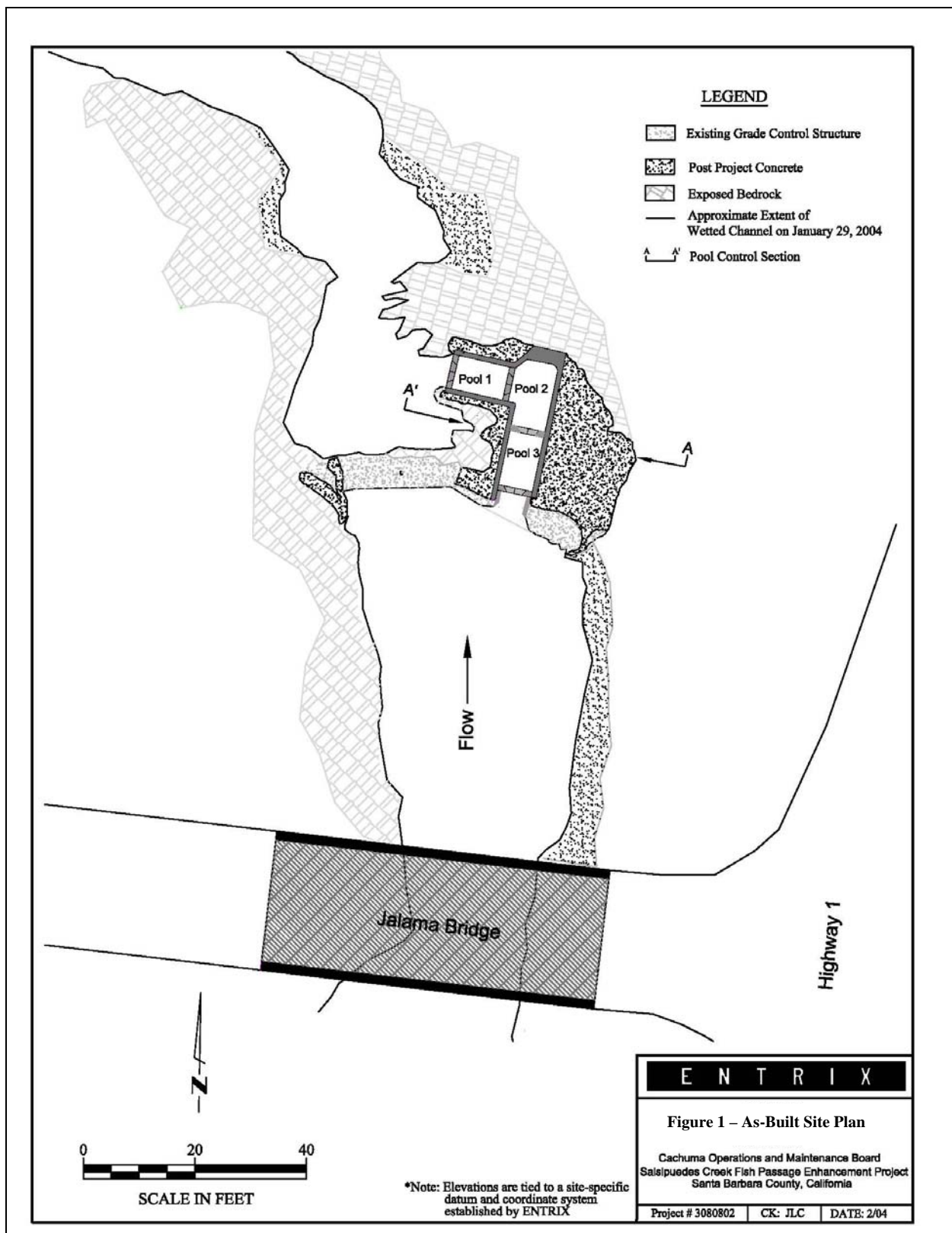
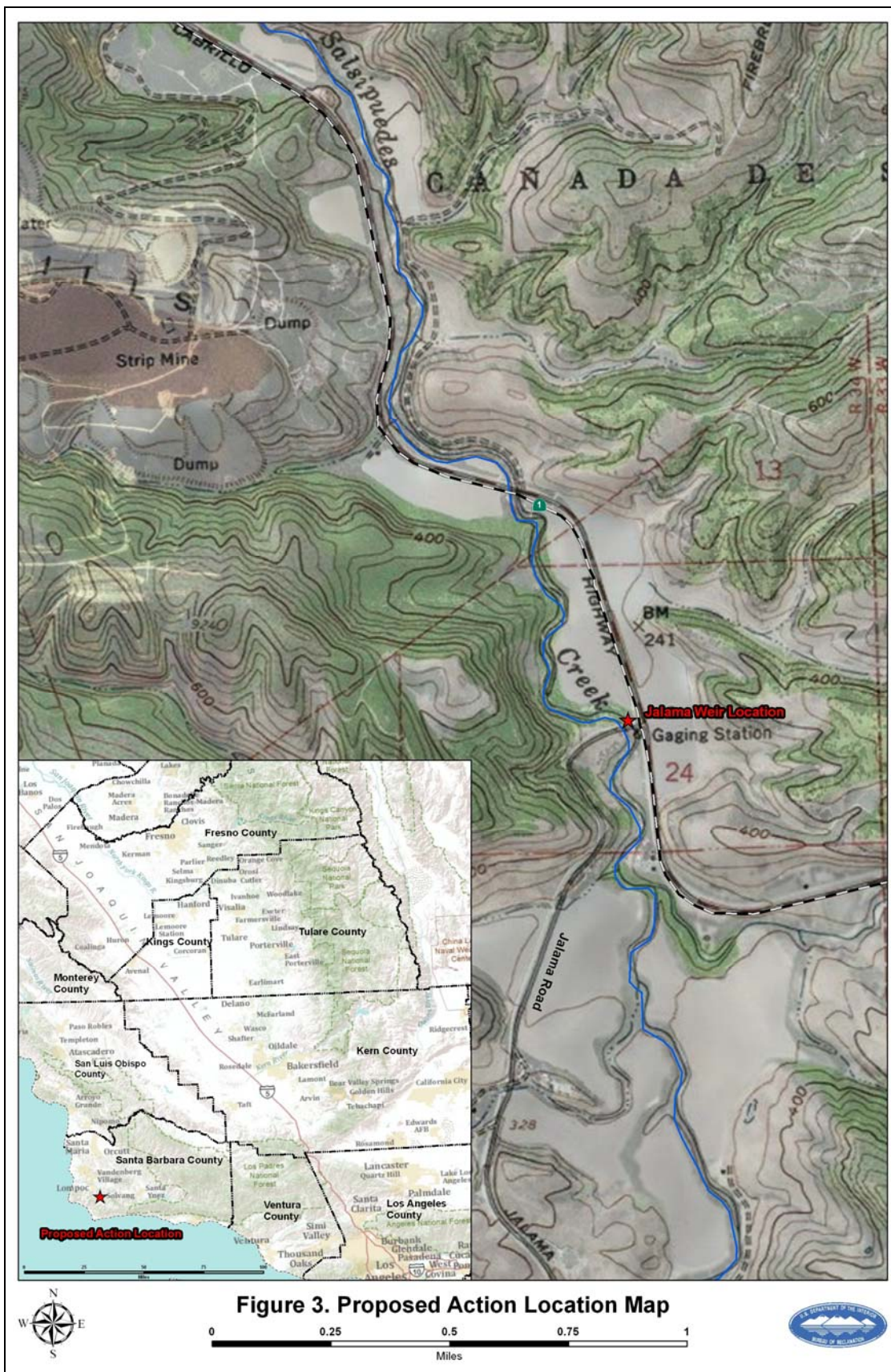




Figure 2. Before and After Photos of the Jalama Weir/Fish Ladder



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Section 2 Alternatives Including The Proposed Action

This EA considers two possible actions: the No Action Alternative and the Proposed Action. The No Action Alternative reflects future conditions without the Proposed Action and serves as a basis of comparison for determining potential effects to the human environment.

2.1 No Action Alternative

Under the No Action Alternative, the wooden boards would not be removed and the fish ladder would function under existing conditions.

2.2 Proposed Action

On Reclamation's behalf, personnel from the Cachuma Conservation Release Board (CCRB) proposes to remove wooden boards that were attached to Jalama Weir by DFG. CCRB personnel would use wrenches, pliers, and other hand tools (as necessary) to remove bolts anchoring the wooden boards to the concrete weir and remove the wooden boards themselves. Existing paths would be used to access the Proposed Action location and work would be confined to the concrete weir/fish ladder structure. There would be no excavation involved with the Proposed Action and work would be completed within one day in January 2011.

2.2.1 Environmental Protection Measures

Reclamation would implement the following environmental protection measures to reduce potential environmental impacts associated with the Proposed Action (Table 1).

Table 1. Environmental Protection Measures*	
Resource	Protection Measure
Biological Resources	Reclamation would implement the following measures to avoid take of CLRF egg masses and tadpoles: 1.) Qualified biologists shall survey the upstream pool prior to removing the weir plate; 2) If a CLRF egg mass is observed, the project would be delayed until the eggs have hatched or the egg mass disappeared (i.e., predated or naturally dislodged); 3) If a tadpole is observed, the weir plate would be accessed from the shoreline and personnel would not wade into/through the creek for access; 4) If a tadpole is observed, the drawdown would commence at a very slow rate. A qualified biologist shall remain onsite during the drawdown and continuously survey the margins of the pool for depressions or emergent vegetation in which a tadpole may become stranded. If a depression or emergent vegetation has the potential to strand a tadpole, the drawdown shall immediately cease and not resume until these conditions no longer exist. This may include waiting for the tadpole(s) to metamorphose or waiting for the tadpole(s) to vacate the depression/vegetation on their own accord.
Biological Resources	The biologists that conduct the survey for CLRF would slowly walk the margins of the pool so as not to disturb listed species, including steelhead. The short duration required for the weir-plate removal, the work being conducted in a manner so as to minimize any disturbance, including slow movement of personnel during the action, use of hand tools, and also characteristics of the pool, including its depth and the presence of hiding cover and turbulence (a bubble curtain) within the fishway, would serve to minimize any effect to steelhead.

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Section 3 Affected Environment & Environmental Consequences

3.1 Water Resources

3.1.1 Affected Environment

The Salsipuedes Creek, along with its major tributary, El Jaro Creek, is the largest tributary to the lower Santa Ynez River. The Salsipuedes Creek/El Jaro Creek watershed drains approximately 47.1 square-miles and flows roughly 25.1 miles from its headwaters along the Santa Ynez Mountain Range to its confluence with the lower Santa Ynez River.

The impediment barrier existed in the creek before the Jalama Weir was constructed and this barrier helped to create a pool that exists upstream of the Jalama Weir site. The pool above weir #4 ranges from 2 to 9 feet deep, and widths from 25 to 40 feet, depending on flow conditions and sections of the pool. DFG's installation of the temporary wooden boards on weir #4 added approximately up to 0.85 feet of head to the pool (Reclamation 2010).

3.1.2 Environmental Consequences

No Action Alternative

Under the No Action Alternative, there would be no change to existing conditions and no impacts would occur.

Proposed Action

The Proposed Action does not involve excavation in or fill of Salsipuedes Creek; therefore, no impacts to water quality would occur.

Removal of the wooden boards has the potential to reduce the depth of the pool above the weir by up to 0.85 feet, which is approximately less than 10% of the deepest portions of the pool and up to 30% of the greatest depths of the shallow portions of the pool. This head loss may be slightly greater under high flows in Salsipuedes Creek as the head build under pressure at the weir, but the differential would be small and would decline progressively as one travels upstream and at low flow velocities. The Proposed Action may result in increased flows through the weir structure and less over the impediment barrier, however, the difference in flow velocities would be minimal and would not result in adverse impacts to the Salsipuedes Creek above and below Jalama Weir.

3.2 Biological Resources

3.2.1 Affected Environment

The Salsipuedes watershed drains approximately 47.1 square-miles and flows roughly 25.1 miles from its headwaters along the Santa Ynez Mountain Range to its confluence with the lower Santa Ynez River. The Jalama Weir is located approximately 4 miles from the juncture of Salsipuedes Creek with the Santa Ynez River.

The Proposed Action area itself is small and is focused in a steep ravine on Salsipuedes Creek just below the Jalama Road Bridge. The surrounding uplands are agricultural or grazed grassland, with patches of Coastal woodland. The site itself is a riparian zone characterized by the presence of an overstory of moderate sized trees, with small open gaps having grassy and herbaceous vegetation with interspersed shrubs. Some willows (*Salix* sp.) are presently close to the water- course. Additionally, the riparian zone has some steep bank areas that lead from higher plateaus above the creek. Portions of the steep banks are dominated by rocky outcrops and these are generally barren of vegetation. The stream course in the vicinity of the weir has a rocky- substrate and emergent vegetation is lacking.

Five species listed as either threatened or endangered under the Federal ESA (16 USC 1531 et seq.) could potentially occur in or along Salsipuedes Creek in the vicinity of the Proposed Action area, including steelhead, CRLF, Least Bell's vireo (*Vireo pusillus bellii*), southwestern willow flycatcher (*Empidonax traillii extimus*) and the marbled murrelet (*Brachyrmphus marmoratus*). Additionally, the state endangered Seaside Bird's beak (*Cordylanthus rigidus littoralis*) is identified from areas along Salsipuedes Creek.

The bird species could be present during the breeding season, which for the earliest breeders would begin in February. However, because the Proposed Action would occur before then and the habitat for these species would not be affected, these species would not be affected by the Proposed Action and will not be analyzed further. The Seaside Bird's beak are found on young marine sand deposits along the coast or inland on older elevated marine terraces with very sandy soils, and occasionally in loose residual soils in adjacent sites, but these areas would not be affected by the removal of the weir in the stream and so this species would not be affected.

3.2.2 Environmental Consequences

No Action Alternative

Under the No Action Alternative, the wooden weir plates would not be removed. The retention of the plates would keep the depth of the pool as is, and there would be no change in the area inundated or depth of the pool. However, the jump height for steelhead trying to negotiate the weir would remain as is, which is higher than approved for the constructed weir. This condition could cause migrating adult steelhead to expend more energy to pass over the structure, and could possibly make the structure impassable. Additionally, attraction flows through the weir would remain lower than designed because of the diversionary effects of the wooden weir plates, which diverts some flow toward the existing impassable barrier. The consequences of this would likely be to reduce access to suitable spawning habitat by adult steelhead, potentially reducing steelhead reproduction in the Salsipuedes Creek and overall recruitment to the population emanating from the Santa Ynez River system.

Proposed Action

The Proposed Action would remove wooden weir plates attached to the Jalama Weir. Removal would lower the jump height by approximately 0.85 feet of the uppermost portion of the weir to comply with original approved design standards. These standards ensure that the jump height for steelhead would be reduced and facilitate steelhead migration. A greater fraction of fish would be able to negotiate passage around the existing passage impediment, thereby allowing for

greater utilization of steelhead breeding, and rearing habitat above the impediment. Impacts to steelhead would be wholly beneficial.

The depth of the pool would decline slightly, but because of bathymetrics of the pool, there would be minimal change in the surface area and depth of the pool and these changes would not be altered to the degree that it would measurably affect habitat quality for steelhead or CLRF.

3.3 Cultural Resources

A cultural resource is a broad term that includes prehistoric, historic, architectural, and traditional cultural properties. The National Historic Preservation Act (NHPA) of 1966 is the primary Federal legislation that outlines the Federal Government's responsibility to cultural resources. Section 106 of the NHPA requires the Federal Government to take into consideration the effects of an undertaking on cultural resources listed on or eligible for inclusion in the National Register of Historic Places (NRHP). Those resources that are on or eligible for inclusion in the NRHP are referred to as historic properties. For Federal projects, cultural resource significance can be evaluated in terms of eligibility for listing in the NRHP.

The Section 106 process is outlined in the Federal regulations at 36 Code of Federal Regulations (CFR) Part 800. These regulations describe the process that the Federal agency (Reclamation) takes to identify cultural resources and the level of effect that the proposed undertaking would have on historic properties. In summary, Reclamation must first determine if the action is the type of action that has the potential to affect historic properties. If the action is the type of action to affect historic properties, Reclamation must identify the area of potential effects (APE), determine if historic properties are present within that APE, determine the effect that the undertaking would have on historic properties, and consult with the State Historic Preservation Officer (SHPO), to seek concurrence on Reclamation's findings. In addition, Reclamation is required through the Section 106 process to consult with Indian Tribes concerning the identification of sites of religious or cultural significance, and consult with individuals or groups who are entitled to be consulting parties or have requested to be consulting parties.

3.3.1 Affected Environment

The Jalama Weir and Salsipuedes Creek Fish Ladder was completed in January 2004.

3.3.2 Environmental Consequences

No Action

Under the No Action Alternative, there would be no impacts to cultural resources since conditions related to cultural resources would remain the same as existing conditions.

Proposed Action

The Proposed Action is the type of activity that has no potential to affect historic properties. There would be no ground disturbance, work would be completed using hand tools, and work would be confined to an existing weir/fish ladder concrete structure. Since no historic properties would be affected, no cultural resources would be impacted by implementing the Proposed Action.

3.4 Indian Trust Assets

ITA are legal interests in assets that are held in trust by the United States (U.S.) for Federally recognized Indian tribes or individuals. The trust relationship usually stems from a treaty, executive order, or act of Congress. The Secretary of the Interior is the trustee for the U.S. on behalf of Federally recognized Indian tribes. “Assets” are anything owned that holds monetary value. “Legal interests” means there is a property interest for which there is a legal remedy, such as compensation or injunction, if there is improper interference. ITA cannot be sold, leased or otherwise alienated without the U.S.’ approval. “Assets” can be real property, physical assets, or intangible property rights, such as a lease, or right to use something; which may include lands, minerals and natural resources in addition to hunting, fishing, and water rights. Indian reservations, rancherias, and public domain allotments are examples of lands that are often considered trust assets. In some cases, ITA may be located off trust land. Reclamation shares the Indian Trust responsibility with all other agencies of the Executive Branch to protect and maintain ITA reserved by or granted to Indian tribes, or Indian individuals by treaty, statute, or Executive Order.

3.4.1 Affected Environment

The nearest ITA is the Santa Ynez Reservation, which is approximately 18 miles east of the Proposed Action location.

3.4.2 Environmental Consequences

No Action

Under the No Action Alternative, there would be no impacts to ITA as there would be no ground-disturbing activities and conditions would remain the same as existing conditions.

Proposed Action

There are no tribes possessing legal property interests held in trust by the U.S. in the areas involved with the Proposed Action and no construction would be involved; therefore, this action would have no potential to affect ITA.

3.5 Indian Sacred Sites

Executive Order 13007 provides that in managing Federal lands, each Federal agency with statutory or administrative responsibility for management of Federal lands will, to the extent practicable and as permitted by law, accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, and avoid adversely affecting the physical integrity of such sacred sites.

3.5.1 Affected Environment

The nearest ITA is the Santa Ynez Reservation, which is approximately 18 miles east of the Proposed Action location.

3.5.2 Environmental Consequences

No Action

Under the No Action Alternative, there would be no impacts to Indian sacred sites since conditions would remain the same as existing conditions.

Proposed Action

Since no known Indian sacred sites have been identified, the Proposed Action would not impact known Indian sacred sites and/or prohibit access to and ceremonial use of this resource.

3.6 Cumulative Impacts

Since the Proposed Action would not have any impacts on cultural resources, ITA, and Indian sacred sites, there would be no cumulative adverse impacts to these resources when taken into consideration other similar past, present, and reasonably foreseeable related actions.

There would be no cumulative adverse impacts to water resources since flow conditions would be within historical ranges and restored to conditions when Jalama Weir was first constructed, which was analyzed and approved by the Corps.

Cumulative impacts to biological resources in the Lower Santa Ynez River watershed are occurring from gradual development in all drainages, including that of Salsipuedes creek, although the developmental pressures in the Salsipuedes drainage are relatively low. Where overgrazing, agricultural and developmental activities occur, there is increased runoff and siltation to the creek which affects suitability for steelhead. However, increased conservation awareness has been generated through outreach by the CCRB. CCRB personnel have improved landowner awareness of such issues and projects to improve passage on Salsipuedes Creek for steelhead have enhanced the amount of habitat available to steelhead. The Proposed Action would cumulatively add to beneficial impacts of recent passage enhancements, by restoring the weir to its approved and permitted design, which itself was intended to contribute cumulatively to the benefit of steelhead utilization of the habitat in the Salsipuedes drainage. Cumulative impacts to CRLF through the change to the water level in the small area of the pool would be extremely minor and completely within the range of natural changes that occur annually, given the hydrologic dynamics of the Salsipuedes Creek drainage.

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Section 4 Consultation and Coordination

Several Federal laws, permits, licenses and policy requirements have directed, limited or guided the NEPA analysis and decision making process of this EA.

4.1 Fish and Wildlife Coordination Act (16 USC § 661 et seq.)

The Fish and Wildlife Coordination Act (FWCA) requires that Reclamation consult with fish and wildlife agencies (Federal and State) on all water development projects that could affect biological resources. The amendments enacted in 1946 require consultation with the Service and State fish and wildlife agencies where the “waters of any stream or other body of water are proposed or authorized, permitted or licensed to be impounded, diverted or otherwise controlled or modified” by any agency under a Federal permit or license. Consultation is to be undertaken for the purpose of “preventing the loss of and damage to wildlife resources.”

The Proposed Action would restore features of the weir previously permitted after full consultation for the structure with Service and therefore FWCA coordination is not required.

4.2 Endangered Species Act (16 USC § 1531 et seq.)

Section 7 of the ESA requires Federal agencies to ensure that discretionary federal actions do not jeopardize the continued existence of threatened or endangered species or result in the destruction or adverse modification of the critical habitat of these species.

Reclamation has determined that the Proposed Action is not likely to adversely affect the CLRF or the Southern California DPS steelhead. The Proposed Action is not likely to destroy or adversely modify designated critical habitat for the steelhead. Rather, the Proposed Action would result in wholly beneficial impacts to steelhead. In addition, Reclamation has determined that the Proposed Action would not affect other federally listed species or designated critical habitat. This determination is based on the information presented previously in Section 3.3.2 and is largely reliant on the absence of listed species and designated critical habitat from areas that would be affected by the Proposed Action. Pre-construction biological surveys would be conducted before any action is taken. No ground would be disturbed. If Service and NMFS concur with Reclamation’s determinations and surveys find no individuals or evidence of listed species within the Proposed Action area and that no adverse effect would result from the Proposed Action, no further consultation would be required. If the surveys detect the presence of listed species, then the Proposed Action would be paused while Reclamation revisits the ESA determination and completes any consultation with the Service that might be necessary.

Concurrences for these determinations have been received from the Ventura office of the Service (for CLRF) and NMFS, respectively (see Appendix B).

4.3 National Historic Preservation Act (16 USC § 470 et seq.)

The NHPA of 1966, as amended, is the primary Federal legislation that outlines the Federal Government's responsibility to consider the effects of their actions on historic properties. The 36 CFR Part 800 regulations that implement Section 106 of the NHPA describe how Federal agencies address these effects. Additionally, Native American human remains, cultural objects, and objects of cultural patrimony are protected under the Native American Graves Protection and Repatriation Act of 1990 (25 USC 32) and its implementing regulation outlined at 43 CFR Part 10. The Archaeological Resources Protection Act of 1979 (16 USC 470aa), as amended, and its implementing regulations at 43 CFR 7, protects archaeological resources on Federal land.

The Proposed Action has no potential to impact historic properties based on conclusions in Section 3.4.2.

4.4 Migratory Bird Treaty Act (16 USC § 703 et seq.)

The Migratory Bird Treaty Act (MBTA) implements various treaties and conventions between the U.S., Canada, Japan, Mexico, and the former Soviet Union for the protection of migratory birds. Unless permitted by regulations, the MBTA provides that it is unlawful to pursue, hunt, take, capture or kill, possess, offer to or sell, barter, purchase, deliver or cause to be shipped, exported, imported, transported, carried or received any migratory bird, part, nest, egg or product, manufactured or not. Subject to limitations in the MBTA, the Secretary of the Interior may adopt regulations determining the extent to which, if at all, hunting, taking, capturing, killing, possessing, selling, purchasing, shipping, transporting or exporting of any migratory bird, part, nest or egg will be allowed, having regard for temperature zones, distribution, abundance, economic value, breeding habits and migratory flight patterns.

The Proposed Action involves the hand removal of existing temporary wooden boards on an existing concrete weir, and has no potential to impact species protected by the MBTA.

4.5 Clean Air Act (42 USC § 176 et seq.)

Section 176 (c) of the Clean Air Act (CAA) (42 USC 7506 (c)) requires that any entity of the Federal government that engages in, supports, or in any way provided financial support for, licenses or permits, or approves any activity to demonstrate that the action conforms to the applicable State Implementation Plan (SIP) required under Section 110 (a) of the CAA (42 USC 7401 (a)) before the action is otherwise approved. In this context, conformity means that such federal actions must be consistent with a SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of those standards. Each federal agency must determine that any action that is proposed by the agency and that is subject to the regulations implementing the conformity requirements will, in fact conform to the applicable SIP before the action is taken. There would be no excavation involved with the Proposed Action that would involve emissions to impact air quality.

4.6 Environmental Justice

Environmental justice refers to the fair treatment of peoples of all races, income levels, and cultures with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment implies that no person or group of people should shoulder a disproportionate share of negative impacts resulting from the execution of Federal programs. Executive Order 12898, dated February 11, 1994, establishes the achievement of environmental justice as a Federal agency priority. The memorandum accompanying the order directs heads of departments and agencies to analyze the environmental effects of federal actions, including human health, economic, and social effects when required by NEPA, and to address significant and adverse effects on minority and low-income communities.

The Proposed Action has no potential to impact minority or disadvantaged populations.

4.7 Clean Water Act (16 USC § 703 et seq.)

Section 401

Section 401 of the Clean Water Act (CWA) (33 USC § 1311) prohibits the discharge of any pollutants into navigable waters, except as allowed by permit issued under sections 402 and 404 of the CWA (33 USC § 1342 and 1344). If new structures (e.g., treatment plants) are proposed, that would discharge effluent into navigable waters, relevant permits under the CWA would be required for the project applicant(s). Section 401 requires any applicant for an individual Corps dredge and fill discharge permit to first obtain certification from the state that the activity associated with dredging or filling will comply with applicable state effluent and water quality standards. This certification must be approved or waived prior to the issuance of a permit for dredging and filling.

No pollutants would be discharged into the creek, the extent of work involves personnel wading out into the creek and removing wooden boards from a concrete structure using hand tools; therefore, impact would be minimal, if any, and a 401 Water Quality Certification is not required.

Section 404

Section 404 of the CWA authorizes the Corps to issue permits to regulate the discharge of “dredged or fill materials into waters of the United States” (33 USC § 1344).

No activities such as dredging or filling of wetlands or surface waters would be required for implementation of the Proposed Action; therefore, a 404 Corps permit is not required.

Section 5 List of Preparers and Reviewers

Michael Inthavong, Natural Resources Specialist, SCCAO

Patricia Rivera, Indian Trust Assets, MP- 400

Adam Nickels, Cultural Resources, MP-153

Ned Gruenhagen, Ph.D., Wildlife Biologist, SCCAO

Chuck Siek, Supervisory Natural Resources Specialist, SCCAO – Reviewer

Section 6 References

NMFS (National Marine Fisheries Service). 2000. Biological Opinion for, *U.S. Bureau of Reclamation operation and maintenance of the Cachuma Project on the Santa Ynez River in Santa Barbara County, California*. National Marine Fisheries Service, Southwest Region. September 8, 2000.

Reclamation (Bureau of Reclamation). 2010. Letter from Reclamation to Ventura Fish and Wildlife Service, *Request for Concurrence that the Proposed Removal of Temporary Structure Attached to Jalama Weir is not likely to adversely affect the threatened California red-legged frog*. Bureau of Reclamation, SCCAO Office. December 21, 2010.

Appendix A – ITA and Cultural Resources Concurrence

Inthavong, Michael T

From: Rivera, Patricia L
Sent: Monday, January 10, 2011 2:11 PM
To: Inthavong, Michael T
Subject: RE: ITA Request Form (EA-10-110)

Michael,

I reviewed the proposed action to approve the Cachuma Conservation Release Board's (CCRB) proposal to remove wooden boards that are attached to Jalama Weir/Salsipuedes Creek Fish Ladder. CCRB personnel would use wrenches, pliers, and other hand tools (as necessary) to remove bolts anchoring the wooden boards to the concrete weir and remove the wooden boards themselves. Existing paths would be used to access the Proposed Action location and work would be confined to the concrete weir/fish ladder structure. There would be no excavation involved with the Proposed Action and work would be completed within a couple of days in January 2011.

The proposed action does not have a potential to affect Indian Trust Assets. The nearest ITA is Santa Ynez Reservation, which is approx. 18 miles East of the project location.

Patricia

Inthavong, Michael T

From: Nickels, Adam M
Sent: Monday, January 10, 2011 10:29 AM
To: Inthavong, Michael T; Perry, Laureen (Laurie) M
Cc: Bruce, Brandee E; Goodsell, Joanne E; Overly, Stephen A; Barnes, Amy J; Dunay, Amy L; Fogerty, John A
Subject: RE: CR Review (EA-10-110)

Project No. 10-SCAO-055

Michael:

I have reviewed the Draft EA 10-110 "Jalama Weir/Salsipuedes Creek Fish Ladder Wooden Structure Removal – Cachuma Project. I have no additional edits to the draft EA. The no action alternative would not constitute a Section 106 nexus for Reclamation. The Proposed Action alternative has no potential to cause effects to historic properties pursuant to 36 CFR Part 800.3(a)(1). The action will remove wooden weirs that were put in place by department of fish and game. The existing concrete weir was constructed in 2004. There will be no ground disturbance as a result of this undertaking. All removal will be done using hand tools. This email is intended to convey the conclusion of the Section 106 process for this undertaking. Thank you for providing the opportunity to comment.

Sincerely,

Adam M. Nickels - Archaeologist - M.S.

Phone: 916.978.5053 - Fax: 916.978.5055 - www.usbr.gov

~~REDACTED~~ - Mid-Pacific Regional Office MP-153 2800 Cottage Way - Sacramento, California 95825



From: Inthavong, Michael T
Sent: Monday, January 10, 2011 10:10 AM
To: Perry, Laureen (Laurie) M
Cc: Bruce, Brandee E; Goodsell, Joanne E; Overly, Stephen A; Barnes, Amy J; Nickels, Adam M
Subject: CR Review (EA-10-110)

Good Morning,

Attached is a draft EA for your team to review. Please let me know if there's anything else I can provide to help with the review process.

CA#: A10-0368-8943-332-10-0-0

Brief project description: Cachuma Operation and Maintenance Board (COMB), on Reclamation's behalf, built a concrete weir/fish ladder on the Salsipuedes Creek (which is a tributary to the Santa Ynez River) in 2004 in Santa Barbara County. In 2008, Fish and Game installed, without permission, some wooden boards to make one of the weirs ~0.85 feet higher. On Reclamation's behalf, Cachuma Conservation Release Board is proposing to hand remove those boards using hand tools. No ground excavation, work would be confined to existing concrete weir, and would take one day to complete. Map of project location is in the draft EA.

Appendix B – Concurrences from NMFS and Service



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

JAN 13 2011

In response, refer to:
2010/06387

David E. Hyatt
U.S. Bureau of Reclamation
South-Central California Area Office
1243 N Street
Fresno, CA 93721-1813

Dear Mr. Hyatt:

NOAA's National Marine Fisheries Service (NMFS) is responding to the U.S. Bureau of Reclamation's (Reclamation) proposed removal of a temporary weir-plate from the concrete fishway located under the Jalama Road Bridge on Salsipuedes Creek, Santa Barbara County, California. Salsipuedes Creek, tributary to the Santa Ynez River, provides habitat for the endangered Southern California Distinct Population Segment of steelhead (*Oncorhynchus mykiss*) and is designated critical habitat for this species pursuant to the U.S. Endangered Species Act. Your December 21, 2010, letter requests concurrence with Reclamation's determination that the proposed action may affect, but is not likely to adversely affect steelhead and would not destroy or adversely modify designated critical habitat for this species.

The California Department of Fish and Game installed the temporary plate on the upstream weir of the existing fishway in 2008 for the purposes of reestablishing pool habitat immediately upstream of the fishway. Subsequent to installation of the temporary weir-plate, streambed scouring (owing to hydraulic action of streamflows) reestablished pool depth to a level that renders the temporary weir-plate obsolete at this time.

The proposed removal of the temporary weir-plate would be conducted using hand-tools (e.g. wrenches and pliers) and completed within one day. Cachuma Conservation Release Board biologists, representing Reclamation, would survey the upstream pool habitat for presence of California red-legged frog (CRLF) and egg masses prior to removing the temporary weir-plate by walking along the margin of the pool.

Adult and juvenile steelhead may be present in the fishway and upstream pool during the proposed removal of the temporary weir-plate and CRLF surveys. However, individuals that may be present are not anticipated to be disturbed beyond temporary behavioral response of

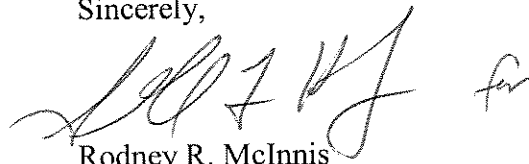


avoidance (seeking cover) and is not reasonably likely to result in take (e.g. harass¹) due to the duration (hours) and physical nature (hand-tools and slowly walking stream margin) of the proposed action. Turbulence (bubble-curtain) within the fishway and water depth in the upstream pool provides hiding cover for juvenile and adult steelhead from any perceived threats. Therefore, potential direct effects are anticipated to be insignificant.

Removal of the temporary weir-plate would beneficially affect the species and critical habitat by reducing the jump height over the subject weir and increasing attraction flow to the fishway for upstream migrating steelhead. Removal of the temporary weir-plate would also reduce the pool's water-surface elevation and depth by as much as 0.85 feet. Based on measurements taken in November 2010, the maximum depth of the pool is greater than 9.0 feet, and much of the pool is greater than 3.0-feet deep. Although pool depth would be reduced once the weir plate is removed, the habitat is expected to provide the same or similar function (adult holding and resting cover, and juvenile rearing) as the existing conditions, and is within the natural fluctuation of pool depth demonstrated in recent years. Therefore, indirect effects anticipated to occur would be both beneficial (reduced jump height and increased attraction flow) and insignificant to the species (reduced pool depth), and are not expected to diminish the value of designated critical habitat.

Based on the above, NMFS concurs with Reclamation's determination that the proposed removal of the temporary weir-plate from the Jalama Road fishway may affect, but is not likely to adversely affect endangered steelhead or designated critical habitat for this species. This concludes informal section 7 consultation for this proposed action. Consultation must be reinitiated where discretionary Federal involvement or control over the action has been retained (or is authorized by law) and: (1) if new information becomes available revealing effects of the action on listed species in a manner or to an extent not previously considered, (2) if project plans change, (3) if the agency action is subsequently modified in a manner that causes an effect to listed species that was not considered, or (4) if a new species or critical habitat is designated that may be affected by this action. Please contact Darren Brumback at (562) 980-4060 if you have any questions concerning this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Rodney R. McInnis", followed by a small "for" written to the right.

Rodney R. McInnis
Regional Administrator

¹ 50 CFR 17.3: Harass in the definition of "take" in the Endangered Species Act means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering.

cc: Ned Gruenhagen, U.S. Bureau of Reclamation
Mary Larson, California Department of Fish and Game
Roger Root, U.S. Fish and Wildlife Service
Crystal Huerta, U.S. Army Corps of Engineers
Tim Robinson, Cachuma Operation and Maintenance Board
Copy to: 151422SWR2011PR00019
151422SWR2011PR00038



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003



IN REPLY REFER TO:
81440-2011-TA-0090

January 14, 2011

David E. Hyatt
Bureau of Reclamation
South-Central California Area Office
1243 N Street
Fresno, California 93721-1813

Subject: Removal of a Temporary Plate on Jalama Weir in Salsipuedes Creek, Santa Barbara County, California

Dear Mr. Hyatt,

We are responding to your request for our concurrence with your determination that the subject project may affect, but is not likely to adversely affect the California red-legged frog (*Rana draytonii*). We received your request, dated December 21, 2010, in our office on December 22, 2010. Your request and our response are made pursuant to section 7 of the Endangered Species Act of 1973, as amended (Act).

The U.S. Fish and Wildlife Service's (Service) responsibilities include administering the Endangered Species Act of 1973, as amended (Act), including sections 7, 9, and 10. Section 9 of the Act and its implementing regulations prohibit the taking of any federally listed endangered or threatened species. Section 3(19) of the Act defines take to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Service regulations (50 CFR 17.3) define harm to include significant habitat modification or degradation which actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Harassment is defined by the Service as an intentional or negligent action that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. The Act provides for civil and criminal penalties for the unlawful taking of listed species. For projects with Federal involvement, exemptions to the prohibitions against take may be obtained through interagency consultation pursuant to section 7 of the Act.

On behalf of the Bureau of Reclamation (Bureau), the Cachuma Operations and Maintenance Board (COMB) constructed the Jalama weir to allow fish passage around a barrier located just downstream of the Jalama Road crossing of Salsipuedes Creek in Santa Barbara County,



California. The permanent, concrete portion of Jalama weir was designed and constructed to comply with recommendations from the National Marine Fisheries Service (NMFS) and the California Department of Fish and Game (DFG) regarding appropriate passage requirements for federally endangered southern steelhead (*Onchorhynchus mykiss*). Subsequently, a wooden plate was installed at the top of the weir to supplement habitat for the California red-legged frog (known to occur in Salsipuedes Creek) by enlarging the pool that forms immediately upstream of the weir/barrier. The weir plate increased the jump height for steelhead to 1.6 feet, which exceeds the height recommended by NMFS and DFG (1 foot for adult steelhead). The Bureau is proposing to remove the weir plate to restore passage for steelhead. The Bureau proposes to remove the weir plate in January 2011 (during the California red-legged frog breeding season). The proposed project would take 1 day to complete, and project workers would only require hand tools to complete the proposed activities.

The depth of the upstream pool is 2 feet near the margins, 9 feet at the deepest, and is commonly 3 to 6 feet. On January 7, 2011, Tim Robinson (Senior Resource Scientist for the Cachuma Conservation Release Board) surveyed the pool to determine baseline conditions. He did not observe any aquatic vegetation in the pool or any California red-legged frog egg masses or tadpoles.

The Bureau recognizes that the proposed action would drop the water level of the upstream pool by less than 1 foot. Because the pool has steep banks, the Bureau determined that removing the weir plate would cause only a minor reduction in surface area of the pool. The Bureau determined that adequate habitat for California red-legged frogs would remain after weir plate removal. The Bureau determined that adult and juvenile California red-legged frogs may be affected by a change in pool depth, but the mobility of these life stages should allow easy acclimation to the new water level and preclude any adverse effects.

The Bureau acknowledges that lowering the pool depth could affect California red-legged frogs by stranding egg masses above the new water level. In addition, previous experience has shown us that rapid drawdown can strand tadpoles in depressions and emergent vegetation at the margins of a pool. Stranding would likely cause desiccation and death of affected eggs and tadpoles. The Bureau would implement the following measures to avoid take of California red-legged frog egg masses and tadpoles:

1. Qualified biologists will survey the upstream pool prior to removing the weir plate;
2. If a California red-legged frog egg mass is observed, the Bureau would delay the project until the eggs have hatched or the egg mass has disappeared (i.e., predated or naturally dislodged);
3. If a tadpole is observed, the Bureau will access the weir plate from the shoreline and will not wade into/through the creek for access.

4. If a tadpole is observed, the Bureau will commence drawdown at a very slow rate. A qualified biologist will remain onsite during drawdown and continuously survey the margins of the pool for depressions or emergent vegetation in which a tadpole may become stranded. If a depression or emergent vegetation has the potential to strand a tadpole, the Bureau will cease drawdown until these conditions no longer exist. This may include waiting for the tadpole(s) to metamorphose or waiting for the tadpole(s) to vacate the depression/vegetation on their own accord.

Considering implementation of these measures, the Bureau determined the proposed action is not likely to adversely affect the California red-legged frog.

We concur with your determination that the proposed project is not likely to adversely affect the California red-legged frog. Our concurrence is based on the following:

1. Only a small amount of artificially created habitat for California red-legged frogs would be lost;
2. Given the small loss of surface area of the pool, adult and juvenile California red-legged frogs should easily be able to retreat to the new water level; and
3. The Bureau proposes to implement the aforementioned avoidance measures.

Our concurrence does not authorize take of the California red-legged frog or any other listed species. If any federally listed species is detected, activities that could result in take should cease until the appropriate level of consultation with our office is completed. Our concurrence is valid only for the subject project as described in your request and in this letter. If the project description changes in any way, we recommend you contact our office immediately to determine if additional consultation is necessary.

If you have any questions regarding this letter, please contact David Simmons of my staff at (805) 644-1766, extension 368.

Sincerely,



Jeff Phillips
Deputy Assistant Field Supervisor

cc:

Darren Brumback, National Marine Fisheries Service